

Document Log Item

Addressing	
From	To
Adam Freedman/R9/USEPA/US	wayne.hamilton@shell.com wayne.hamilton@shell.com
CC	BCC
Description Form Used: Memo	
Subject	Date/Time
Fw: CO2 Injection Well - State Primacy	09/10/2009 10:40 AM
# of Attachments	Total Bytes
0	12,827
NPM	Contributor
Processing	
Comments	

Body

Document Body

Wayne,
Please see below for yesterday's correspondence with Victor from Solano County concerning primacy, permit regulations and open communication.

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----- Forwarded by Adam Freedman/R9/USEPA/US on 09/10/2009 10:38 AM -----

From: Adam Freedman/R9/USEPA/US

To: "Chan, Victor M." <VMChan@SolanoCounty.com>
Cc: "Cliche, David W." <DWCliche@SolanoCounty.com>, "Bell, Jeffery" <JBell@solanocounty.com>, "Leland, James H." <JHLeland@SolanoCounty.com>, "Laughlin, James W." <JWLaughlin@SolanoCounty.com>, "Profant, Michael E." <MEProfant@SolanoCounty.com>, "Kaltreider, Misty C." <MKaltreider@solanocounty.com>, "Burton, Nicholas S." <NSBurton@SolanoCounty.com>, "Schram, Stanley J." <SJSchram@SolanoCounty.com>, R9-Deep
Date: 09/09/2009 05:20 PM
Subject: Re: CO2 Injection Well - State Primacy

Victor,

Thank you for keeping me updated as to the proceedings of the Solano County Use Permit planning meetings. Could you provide some specifics concerning the "conditions" with the permit that you discussed this morning?

I am happy to provide you with the requested information.

The answer to your question concerning the State of California as a "joint primacy state" also applies to your question as to who is responsible for enforcement of EPA's permit conditions. California is regarded as having joint primacy because the state has primacy for Class II wells (oil & gas-related), while the federal EPA has direct implementation authority for all other classes of well (including Class V, under which the proposed Shell permit would fall). Therefore, U.S. EPA will be responsible for enforcing the permit conditions once it has been issued to Shell. As a note, California Division of Oil, Gas and Geothermal Resources (DOGGR) is the state authority in charge of enforcing and regulating Class II operations.

As to whether EPA will use proposed requirements for Geologic Sequestration of CO₂ (EPA 816-F-08-032), the answer is partially yes. Until the proposed Class VI regulations are finalized, EPA has some discretion as to which regulations are invoked during the process of writing the permit. Class I-Nonhazardous regulations will serve as an existing guideline, as Class I wells are deep, technically sophisticated wells that dispose of waste below the lowermost Underground Source of Drinking Water (USDW). The construction of Shell's proposed Class V wells are quite similar in nature to Class I wells, and Shell will thus be held to many of the same construction standards as Class I operators. We will also be considering some parts of the

Class I-Hazardous regulations, especially as it pertains to Financial Responsibility. That said, EPA will certainly take Draft Class VI regulations into account as well, especially with regard to testing, monitoring, site characterization and injectate modeling. Since the proposed well will operate under the authority of a Class V-Experimental permit, EPA has the flexibility to craft the permit requirements in a manner as appropriate and reasonable as possible, using whichever Class regulations it sees fit in order to most effectively protect USDWs.

When EPA has crafted its draft permit, I will ensure that you receive a copy of it. We only recently completed the Administrative Review of Shell's permit application. As the Technical Review proceeds, I will have more specifics for you about which requirements EPA will be including in the draft permit; We understand and share your desire to ensure that no conflicts exist between the permits so we hope that Solano County will be able to share their draft permit with us as well. In addition, all correspondence between EPA and Shell (and vice versa) will be shared with DOGGR, the California Regional Water Quality Control Board, as well as Solano County for the purpose of avoiding these conflicts as much as possible. We don't believe that duplication between permits will be an issue, though perhaps maintaining some consistency among the agencies with regard reporting and other requirements would be a good idea. We usually welcome any such cooperation. As one other note, if you are looking for some guidance as to what types of requirements will be included in Shell's proposed permit, please see the Final Permit and accompanying documents for "Arizona Public Services Draft UIC Class V Experimental Permit for Carbon Sequestration" on the following webpage: <http://www.epa.gov/region09/water/groundwater/uic-permits.html#apsVep>

If you have any follow-up questions, please feel free to be in touch.

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"Chan, Victor M." ---09/09/2009 01:51:08 PM---Adam

From: "Chan, Victor M." <VMChan@SolanoCounty.com>
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Cc: "Bell, Jeffery" <JBell@solanocounty.com>, "Leland, James H." <JHLeland@SolanoCounty.com>, "Profant, Michael E." <MEProfant@SolanoCounty.com>, "Cliche, David W." <DWCliche@SolanoCounty.com>, "Kaltreider, Misty C." <MKaltreider@solanocounty.com>, "Burton, Nicholas S." <NSBurton@SolanoCounty.com>, "Schram, Stanley J." <SJSchram@SolanoCounty.com>, "Laughlin, James W." <JWLaughlin@SolanoCounty.com>
Date: 09/09/2009 01:51 PM
Subject: CO2 Injection Well - State Primacy

Adam

We had a planning meeting on the CO2 Injection Well this morning. You should be aware that there may be some conditions with the Solano County's Use Permit.

One issue that came up during today's meeting is about jurisdiction and enforcement on this relatively new program.

According to the EPA homepage on state primacy located at: <http://www.epa.gov/safewater/uic/primacy.html> The State of California is a "joint primacy state" for the UIC program which need clarification. I also have the following questions for the US EPA:

1. Once you issue your EPA permit, who is responsible for enforcement of the EPA's permit conditions? (i.e. will EPA enforce the permit conditions or is enforcement delegated to California?)
2. Will your EPA permit invoke the "proposed" EPA requirements for Geological Sequestration of CO2 (EPA 816-F-08-032) that is now undergoing public review?
3. Can I get a DRAFT of your EPA permit? I would like to coordinate the EPA's requirements with the county requirements to ensure no conflict, avoid duplication and ensure completeness.

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